



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

RG 860

September 8, 1975

The Honorable W. J. Estelle, Jr.  
Director  
Texas Department of Corrections  
Huntsville, Texas 77340

Opinion No. H- 684

Re: Entitlement of part-time  
employees to sick leave benefits.

Dear Mr. Estelle:

You have asked:

1. Does a regular half-time (20 hours per week) employee accrue sick leave at a proportionate rate?
2. Are temporary full-time and temporary part-time employees entitled to the same benefits as part-time employees?

You do not specifically indicate what you mean by temporary employment, but for purposes of this opinion we are using the term to refer to employment which is at least a month in length but which does not have an indefinite duration.

Section 1(n) Article V, of the General Appropriations Act (Acts 1973, 63rd Leg., ch. 659, p. 1786, 2195) provides:

**PART-TIME EMPLOYEES.** Regular full-time positions paid out of funds appropriated for 'salaries of classified positions' may also be filled by part-time employees. In computing the salaries of these employees, the rates of pay shall be proportional to the rates authorized, for full-time classified employment. It is further provided that part-time employees as described in this subsection shall be subject to all of the provisions of this Section.

Both your questions, as we understand them, concern only the accrual of sick leave benefits. The specific General Appropriations Act provision, Article V, section 7b of Acts 1973, 63rd Leg., ch. 659, p. 1786, 2200, reads in part:

b. Employees of the State shall, without deduction in salary, be entitled to sick leave subject to the following conditions:

Sick leave entitlement shall be earned at the rate of eight (8) hours for each month or fraction of a month employment, and shall accumulate with the unused amount of such leave carried forward each month.

The term "employees of the State" as used above is primarily referable, in our opinion, to full-time, regular employees, as contemplated by article 5165a, V. T. C. S. But it is broad enough to embrace both part-time employees and temporary employees. See V. T. C. S. art. 6252-8a. The scheme of the provision is to afford employees one working day credit (8 hours) for each month of employment [of forty (40) hours per week] or fraction thereof. See V. T. C. S. art. 5165a. As applied to part-time employees, the amount of credit earned will be a proportionate one. A regular half-time (20 hours per week) employee will accrue sick leave at the rate of four (4) hours for each month or fraction of a month employment. A temporary full-time employee will accrue sick leave on the same basis as a regular full-time employee if he consistently works a regular forty (40) hour week during the time he is employed. A temporary part-time employee is entitled to benefits on the same basis as a regular part-time employee, i. e., his accrued sick leave, if any, is calculated at a proportionate rate because he works less than forty (40) hours per week continuously. Compare Attorney General Opinion H-86 (1973).

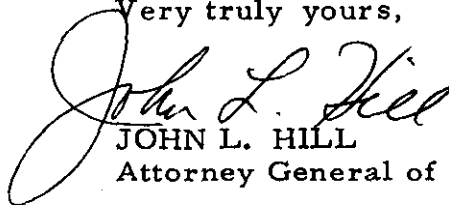
Our determination that part-time temporary employees are entitled to sick leave benefits is based in part on the differences between the 1973 and 1975 General Appropriation Act language regarding employee benefits and that of prior Acts. Compare Attorney General Opinion M-984 (1971). Noted in Attorney General Opinion M-1014 (1971) were certain provisions in the 1971 General Appropriations Act that are also found in Article V, Sections 1(n), (o) and 6(c) of the 1973 Act, and we believe the "holiday" conclusion of M-1014 remains viable. That opinion concluded that part-time employees must be allowed the same holidays (with pay) as are given to employees employed on a regular monthly basis, but it did not indicate they were to receive any pay therefor other than the compensation, if any, they would have received had the day not been a holiday. In other words, their holiday benefits were held to be the same as those of full-time employees, but their realization of them is proportionate, depending upon their work schedules. Also see Attorney General Opinions H-465 (1974), H-408 (1974), H-341 (1974), H-251 (1974), H-105 (1973), and C-161 (1963).

Since the statute makes no distinction between temporary and regular employees, we believe temporary full-time employees are entitled to the same sick leave benefits as are regular full-time employees. While your questions relate to the 1973 Appropriations Act, the relevant language in the 1975 Appropriations Act is substantially the same.

SUMMARY


Temporary and part-time state employees  
accrue sick leave, but part-time employees  
accrue such leave on a proportionate basis.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
Opinion Committee

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